

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 5

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 2006

LOAN PROGRAM FOR KALAPANA DISASTER VICTIMS

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Historical note: Chapter 2006 of Title 17, Hawaii Administrative Rules, is based substantially upon Chapter 320 of Title 6, Hawaii Administrative Rules, [Eff 11/30/91; R 10/25/99], and Chapter 167 of Title 15, Hawaii Administrative Rules. [Eff 10/25/99; R]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-2006-1 Purpose. These rules are adopted pursuant to chapter 91, Hawaii Revised Statutes ("HRS"), to enable the corporation to provide low-interest loans to residents and citizens of Hawaii who have suffered the loss of their homes and lands to the devastating effects of the continued volcanic eruptions on the island of Hawaii which began on January 3, 1983. This loan program is a one-time public relief program of last resort.
[Eff] (Auth: SLH 1991, Act 242)
(Imp: SLH 1991, Act 242)

§17-2006-2 Definitions. As used in this chapter:

"Area of lesser volcanic risk" means an area as determined by the corporation in consultation with the

SUBCHAPTER 2

LOAN PROGRAM FOR KALAPANA DISASTER VICTIMS

§17-2006-5 Corporation's right to contract for services. The corporation is authorized to enter into agreements with or purchase services from any financial institution, or any other appropriate government agency, for services required for the purposes of this chapter. [Eff]
(Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-6 Eligibility criteria for loan. An applicant shall be eligible for a loan under this chapter if:

- (1) The applicant is a resident of Hawaii who has been dispossessed or displaced from his or her home as a result of volcanic eruptions which began on January 3, 1983 on the island of Hawaii in the Kalapana area;
- (2) The applicant has applied for Federal Disaster Assistance and has exhausted all resources from all of the following sources:
 - (A) Federal Small Business Administration;
 - (B) Federal/State Individual and Family Grant Programs; and
 - (C) State of Hawaii Disaster Commercial and Personal Loan Program;
- (3) Except as provided in section 17-2006-8(2), the applicant has no present ownership interest in a principal residence; and
- (4) The applicant possesses the financial resources and credit worthiness to repay the loan. [Eff] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-7 Use of loan. Loans made under this chapter shall be:

- (1) For the purpose of land acquisition, home

(2) A loan of last resort; and
(3) Limited to one loan per household.
[Eff] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

- (1) An applicant who owned a home that was destroyed or rendered inaccessible and has no present ownership interest in a principal residence.
- (2) An applicant who owned a home that was destroyed or rendered inaccessible but has purchased a principal residence which needs repairs or improvements, or both.
[Eff _____] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

- (1) An area should not promote or encourage higher density development in volcanic hazard zones 1 and 2 in the east rift zone of Kilauea unless:
 - (A) Information can be provided by the U.S. Geological Survey that the area in question is of lower risk to lava flow inundation; or
 - (B) A strong case can be made that to do otherwise would not be in the best public interest; and
- (2) An area located in volcanic hazard zones

1 and 2 may be eligible if determined to be an area of lesser volcanic risk.
[Eff] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-10 Amount of loan. The maximum amount of the loan available under this chapter shall be \$35,000 per household. [Eff]
(Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-11 Term of the loan. The term of the loan shall not be more than forty years.
[Eff] (Auth: SLH 1991, Act 242)
(Imp: SLH 1991, Act 242)

§17-2006-12 Interest rate on loan. The interest rate on the loan offered under this chapter shall not exceed three per cent. If the applicants are charged an interest rate which is less than three per cent, the corporation shall, at its option, annually review the applicants' income to determine whether the interest rate charged should be adjusted upward, but not to exceed the interest rate permitted under this chapter.
[Eff] (Auth: SLH 1991, Act 242)
(Imp: SLH 1991, Act 242)

§17-2006-13 Loan procedures. The corporation shall establish the procedures relating to the application and qualification of applicants for loans made under this chapter. [Eff] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-14 Fees. The applicant is responsible for payment for all fees charged by the financial institution, or the government agency, in connection with application for a loan under this chapter.

[Eff] (Auth: SLH 1991, Act 242)
(Imp: SLH 1991, Act 242)

§17-2006-15 Mortgage valid first lien. Whenever possible, the mortgage securing each loan shall constitute a first lien on such real estate secured.
[Eff] (Auth: SLH 1991, Act 242)
(Imp: SLH 1991, Act 242)

§17-2006-16 Establishment of mortgage lien; protection of security. If the loan is secured by a mortgage lien on realty, the financial institution or the government agency shall promptly record or file, or both the lien with the bureau of conveyances or the land court of the State of Hawaii as the case may be, to ensure the creation of a valid lien on the mortgaged property. [Eff] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-17 Acceleration of maturity of loan. The occurrence of either of the following events shall be sufficient grounds for the corporation, at its option, to accelerate the maturity of the loan.

- (1) The applicant ceases to occupy the residence as the applicant's primary residence; or
- (2) Failure to respond within thirty days to the corporation's request to verify the continued occupancy of the applicant. [Eff]
(Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§17-2006-18 Default of loan. The occurrence of any of the following events shall be sufficient grounds for the corporation, at its option, to treat the loan to be in default:

- (1) The property described in the mortgage or security agreement is conveyed or transferred; provided, however, that a

- (2) The loan applicant fails to comply with any agreement executed for the purpose of securing the loan; or
- (3) The corporation determines that any statement made by the applicant in the loan application or loan document is false.

[Eff _____] (Auth: SLH 1991, Act 242)
(Imp: SLH 1991, Act 242)

- (1) Renegotiate, refinance or foreclose the loan;
- (2) Waive any default or consent to the modification of the terms of the loan or the security agreement;
- (3) Commence any action to protect or enforce any right conferred upon the corporation by any law, mortgage, insurance policy, contract or other agreement;
- (4) Bid for and purchase the property secured by the loan at any foreclosure or other sale, or acquire or take possession of the property secured by the loan; or
- (5) Operate, manage, lease, dispose of, or otherwise deal with the property secured by the loan. [Eff _____] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

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§17-2006-21 Occupancy. The applicant shall utilize the residence purchased or repaired or improved or both under this chapter as his or her principal residence for the life of the loan. [Eff]
(Auth: SLR 1991, Act 242) (Imp: SLR 1991, Act 242)

§17-2006-22 False information in application. By signing the application, the loan applicant certifies that the information provided in the application is true and correct. The loan applicant shall be subject to criminal charges or civil action, or both under the laws of the State of Hawaii if false information is provided. [Eff] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

SUBCHAPTER 3

MISCELLANEOUS PROVISIONS

§17-2006-30 Waiver. The board may by resolution waive or vary provisions of these rules or any process or procedure established by these rules in order to conform to applicable federal and state laws, regulations and requirements. [Eff]
(Auth: Act 242, SLH 1991) (Imp: Act 242, SLH 1991)

DEPARTMENT OF HUMAN SERVICES

The repeal of chapter 15-167 and the adoption of chapter 17-2006, Hawaii Administrative Rules, on the Summary Page dated _____, was adopted on _____, following public hearings held on _____, after public notice was given in the Honolulu Star-Bulletin, The Garden Isle, The Maui Times, West Hawaii Today and the Hawaii Tribune-Herald newspapers on _____.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.

CHARLES A. STED

Chairperson
Housing and Community
Development
Corporation of Hawaii

THEODORE E. LIU
Director of Business,
Economic Development
and Tourism

APPROVED AS TO FORM:

Deputy Attorney General

LINDA LINGLE
Governor
State of Hawaii
Date: _____

Filed

DEPARTMENT OF HUMAN SERVICES

Repeal of Chapter 15-167 and
Adoption of Chapter 17-2006
Hawaii Administrative Rules

_____, 2004

1. Chapter 167 of Title 15, Hawaii
Administrative Rules is repealed.

2. Chapter 2006 of Title 17, Hawaii
Administrative Rules, entitled "Loan Program for
Kalapana Disaster Victims" is adopted to read as
follows: